

ANUP SINGH v. STATE OF HARYANA,(2022-1)205 PLR 520

PUNJAB AND HARYANA HIGH COURT

Before: Mr. Justice G.S. Sandhawalia.

ANUP SINGH – Petitioner,

Versus

STATE OF HARYANA and another – Respondents.

CWP No.14046 of 2021

Service Matter - Merely because there are instructions as such of the State, the persons who are going to retire are not to be transferred just prior to their retirement, the same would not be binding upon the State - In the as reproduced above - In the absence of any malafides, the petitioner cannot claim any vested or legal right to continue at a particular place only on account of his pending retirement, once his track record is poor.

Mr. Mohd. Arshad, for the petitioner.Ms. Rajni Gupta, Addl. AG. (through VC)

G.S. Sandhawalia , J. (Oral) - (26th August, 2021) - The petitioner in the present writ petition filed under Article 226/227 of the Constitution of India challenges the order dated 19.11.1998 (Annexure P-7), whereby he has been transferred from Mewat to Ambala. The said order has been challenged on the ground that there is violation of the guidelines issued by the State dated 19.11.1998 (Annexure P-7) and his retirement is due and, therefore, he is not liable to be transferred.

2. This Court on 29.07.2021 had passed the following order:-

“Inter alia submits that the petitioner is due to retire on 31.05.2022 and has been transferred within 7 months of his earlier posting at Nuh as District Elementary Education Officer, vide the impugned order dated 22.07.2021 (Annexure P-5). It is, thus, submitted that there is a violation as such of the guidelines issued by the State dated 19.11.1998 (Annexure P-7).

Notice of motion.

Mr. Gaurav Jindal, Addl. AG, Haryana accepts notice on behalf of the respondents and has placed on record communication dated 29.07.2021 addressed to the Advocate General on behalf of respondent No.2. It is pointed out that the petitioner has already relinquished his charge on 27.07.2021 and the fact that the petitioner has also filed an application for

reconsideration dated 26.07.2021 which is also appended with the present petition as Annexure P-9. It has also been brought to the notice of the Court that the petitioner has been posted for the last 6 years and 7 months in Mewat and there are various complaints against him as such.

Keeping in view the above, this Court is of the opinion that respondent No.2 firstly should take a decision on the representation of the petitioner dated 26.07.2021 (Annexure P-9) as such by passing a reasoned order.

Needful be done on or before the next date of hearing i.e. 26.08.2021.”

3. Against the said order, the petitioner filed LPA No.650 of 2021, which was dismissed on 05.08.2021 by following observations:-

“Appellant has posed a challenge to his transfer from District Nuh-Mewat to District Ambala. His only ground for challenge of transfer is that appellant has about 9 months to retire. According to him, as per the Government Policy, he ought not to have been transferred at this stage. We find no merit in this plea. The Transfer Policies are directory in nature and cannot always give a right to seek a mandamus on that basis. In our considered view the order dated 29.09.2021 passed by learned Single Judge calls for no interference. Present appeal is hereby dismissed.”

4. Keeping in view the order passed by this Court on 29.07.2021 even the respondents have considered his representation and passed order dated 18.08.2021, whereby it has been noticed that in the six years of posting in Mewat since 2015, there are complaints regarding sexual harassment, exploitation of employees and corruption received against the petitioner. Details of the complaints received have been given in the said order also. It has further been noticed that the petitioner has already joined his new place of posting and cannot as such claim to be posted at a particular place as a matter of right.

5. Counsel for the petitioner has chosen not to amend the writ petition or challenge the said order in any manner.

6. Merely because there are instructions as such of the State, the persons who are going to retire are not to be transferred just prior to their retirement, the same would not be binding upon the State, as reproduced above. In the absence of any malafides, the petitioner cannot claim any vested or legal right to continue at a particular place only on account of his pending retirement, once his track record is poor.

7. Accordingly, there is no merit in the present writ petition and the same is dismissed.

R.M.S.

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Petition dismissed.